

REMARKS/ARGUMENTS

Claims 46-91 are pending. By this Amendment, the specification and claims 90 and 91 are amended. This Amendment is being filed along with a Request for Continued Examination.

Claims 90-93 were rejected under 35 U.S.C. §101. This rejection is respectfully traversed.

At the outset, claims 92 and 93 were canceled in the Amendment After Final Rejection filed March 10, 2009. In the Advisory Action of March 18, 2009, it is noted that the amendment canceling claims 92 and 93 was entered for purposes of appeal. Thus, the present Amendment builds from the March 10 Amendment.

In regard to claims 90 and 91, Applicants respectfully traverse the rejection since the claims specifically set forth a computer readable storage medium tangibly storing software executable by a computer. Thus, the premise of the rejection that the claims are directed toward a computer readable storage medium possibly encompassing a signal is incorrect, as one of ordinary skill in the art would understand the claimed storage medium as encompassing, e.g., a disk, a CD-ROM or DVD-ROM or the like. Moreover, claims 90 and 91 are in a format made expressly acceptable in the case of *In re Beauregard*, which was later referred to in the Board's post-Bilski decision of *Ex parte Bo Li*, Appeal 2008-1213 Decided on November 6, 2008 at page 9.

In view of the fact that each of claims 90 and 91 is a "Beauregard claim", claims 90 and 91 are directly analogous to *Ex parte Bo Li*. Thus, claims 90 and 91 are clearly directed to statutory subject matter.

Reconsideration and withdrawal of the rejection are respectfully requested

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. By this Amendment, page 5, lines 19 and 20 are amended to specify that a further aspect of the invention provides a computer readable storage medium tangibly storing software executable by a computer for effecting the method of the first and second aspects of the invention.

Reconsideration and withdrawal of the specification objection are respectfully requested.

Claims 47-67 were objected to based on informalities. Applicants respectfully traverse this objection since dependent claims 47-67 refer directly to independent claim 46 which is clearly related to a computer implemented method.

Reconsideration and withdrawal of the objection are respectfully requested.

Claims 46-56, 62-66, 68-78 and 84-93 were rejected under 35 U.S.C. §103(a) over Tanaka (U.S. Patent No. 6,665,735) in view of Bills (U.S. Patent Publication No. 2003/0204479). This rejection is respectfully traversed.

Claim 46 is directed to a computer implemented method of journaling in a database journal changes to system objects in an operating system with a processor, the method including i) executing a dummy function in place of a system function when the system function is called, ii) executing the system function under operation of the dummy function, and generating copies of system objects, changed by the execution of the system function, for journaling.

Claim 68 is directed to a system for journaling in a database journal changes to system objects including i) a processor adapted to execute a dummy function in place of a system function when the system function is called, wherein the dummy function executes the system function and generates copies of system objects resulting from the execution of the system function execution for journaling, and ii) memory for use by the processor during execution.

The claimed subject matter provides significant advantages over the journaling prior art in that journaling changes are able to be made without being restrained to the journaling of particular objects, whereas the journaling prior art is focused on journaling system objects only for a portion of defined objects. Reference is made to the “Background of the Invention” section of the application which provides a clear discussion of the problems with the prior art. From this prior art description, it is clear that the present disclosure provides a useful solution in the art of database journaling that was clearly not available prior to its inception, i.e., that of providing a general manner of creating journaling functionality without being restrained to particular defined objects.

As admitted in the Office Action, Tanaka et al. does not explicitly disclose a method of journaling changes to system objects and generating copies of the system objects for journaling. See page 6 of the Office Action.

To make up for this deficiency, the final rejection relies on Bills et al.

However, as made clear in Applicants’ July 11, 2008 response, Bills et al. does not teach or suggest the claimed subject matter missing from Tanaka et al. Rather, Bills et al. teaches a method of recording data changes to objects. The method includes the steps of determining if there is an indication within the object that any changes to that object should be stored in the object. If there is such a determination, then the changes are stored only in a journal entry in a journal. Therefore, Bills et al. is not concerned with the storing objects after they have changed, but instead is solely concerned with avoiding storing those changed objects. This is clearly different than the subject matter of claims 46 and 68 wherein copies of system objects are changed by the execution of a system function, and those changed system objects are generated

for journaling. Therefore, Bills et al. does not disclose generating copies of system objects, changed by the execution of the system function, for journaling, as recited in claims 46 and 68.

In the Final Rejection (part 3.a)), the Examiner disagrees with the Applicants' arguments because the Examiner interpreted the phrase "generating copies of system objects" as "generating copies of changes of system objects". The Examiner apparently justified this unreasonable interpretation of the claim language based on Applicants' specification which is said to clearly indicate that the exit program may handle execution of the system function and capture changes to system objects occurring during the execution. Copies of changes are generated by the exit program and saved to disks for journaling (see page 3, line 35 and page 4, lines 1-3). Applicants also disclose copies of changes that are generated by the dummy function (page 4, lines 4-8). Thus, the Examiner concludes that it is entirely reasonable for the Examiner to read "generating copies of system objects" as "generating copies of changes to system objects".

Applicants respectfully submit that the Examiner's rejection/interpretation is improper. The express language of claim 46 requires a method in which the system function is executed under operation of the dummy function and copies of system objects, changed by the execution of the system function, for journaling, are generated. The Examiner's interpretation of the claimed phrase "generating copies of system objects" as "generating copies of changes to system objects" is inappropriate since the Examiner's interpretation is inconsistent with the express language of the claims, especially considering the meaning of the claimed phrase as defined in the present specification. While journaling copies of changed system objects records system objects, journaling copies of changes to system objects according to Bills et al. does not result in recording the system object, as claimed.

Moreover, the Examiner's interpretation is even less appropriate when the specification and claims also distinguish the copying of changes to system objects (claim 65). Specifically, the specification and claims draw a line of distinction between the copying of changes to system objects versus the copying of system objects after changing. However, the Examiner (see part 3.a) of the Final Rejection) improperly uses Applicants' own specification in order to reject the claims.

In paragraphs 10, 11 and 12, various dependent claims have been further rejected under the basic Tanaka et al./Bills et al. combination, and further in view of Owen (U.S. Patent Publication No. 2003/0217031 A1) and Suzuki (U.S. Patent No. 6,829,768). However, neither Owen nor Suzuki makes up for the deficiencies noted above in regard to Tanaka et al. and Bills et al., and none were relied upon for such.

Moreover, the rejection of claim 67 appears improper on its face since it is based on a combination of Bills et al. in view of Cloud (U.S. Patent No. 6,253,369) whereas claim 67 depends from claim 65, which in turn depends from claim 46. As the rejection of claim 46 is based on the combination of Tanaka et al. in view of Bills et al., it appears that the rejection of claim 67 which is rejected based on the combination of Bills et al. and Cloud is improper.

Moreover, Cloud does not make up for the deficiencies noted above in respect to Bills et al. (or Tanaka et al.) and nor was it relied upon for such.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith

TARBELL et al.
Appl. No. 10/531,260
July 10, 2009

(or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140
under Order No. PTB-4942-5.

Should the Examiner believe that anything further is desirable to place the application in
better condition for allowance, he is invited to contact the undersigned at the telephone number
listed below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Paul T. Bowen/
Paul T. Bowen
Reg. No. 38,009

PTB:jck
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100